

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,

vs.

ERIC ROBERT RUDOLPH,

Defendant.

Case No. CR-00-S-422-S

283

ENTERED

DEC 30 2003

AMENDED SCHEDULING ORDER

The Government filed its motion on October 22, 2003, for the court to enter an order establishing a schedule for proceedings in this case, to which the defendant responded on November 3, 2003. Having carefully considered the motion and response, as well as the competing needs of the defendant and the Government, the following schedule is hereby established:

I. Discovery—

a. The Government shall produce to the defendant all information and materials discoverable under Rule 16 of the *Federal Rules of Criminal Procedure*; Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963); and all other federal constitutional, statutory, or rule-based law by no later than January 30, 2004.

b. All defense motions to compel additional discovery or production of investigative materials or information shall be filed by no later than May 3, 2004, to which the Government may respond by May 15, 2004.

c. The defendant shall respond to the Government's reciprocal discovery request and produce to the Government all appropriate reciprocal discovery under Rule 16(b)(1), *Federal Rules of Criminal Procedure*, by no later than May 3, 2004.

d. The Government shall file any motion to compel reciprocal discovery or additional production from the defendant by not later than May 21, 2004, to which the defendant may respond by no later than June 15, 2004.

e. The Government shall produce to the defendant summaries of all opinions and testimony it expects to offer through expert witnesses, as defined by Rules 702, 703, and 705 of the *Federal Rules of Evidence*, by no later than January 30, 2004, including in such summaries the witness's opinions, the bases and reasons for the opinions, and the witness's qualifications as an expert relevant to the opinion to be offered.

f. The defendant shall produce to the Government summaries of all opinions and testimony he expects to offer through expert witnesses, as defined by Rules 702, 703, and 705 of the *Federal Rules of Evidence*, by no later than May 3, 2004, including in such summaries the witness's opinions, the bases and reasons for the opinions, and the witness's qualifications as an expert relevant to the opinion to be offered.

II. Pretrial Motions—

a. All motions pursuant to Rules 12(b)(3)(A), (B), (D), and (E) of the *Federal Rules of Criminal Procedure* shall be filed no later than March 15, 2004.

b. Any motion addressed to change of venue shall be filed by January 30, 2004.

c. Any motion challenging the legality or constitutionality of the death penalty as applicable to this case shall be filed no later than March 1, 2004.

d. Notices of alibi or reliance on the mental disease/defect defense, required by Rules 12.1 and 12.2 of the *Federal Rules of Criminal Procedure* shall be filed no later than May 3, 2004. The Government's response to an alibi notice, as required by Rule 12.1(b), shall be filed no later than May 15, 2004. Insofar as the Government may request a mental examination and evaluation of the defendant to rebut the mental disease/defect defense, it shall move for such no later than May 15, 2004.

e. Any motion pursuant to Daubert v. Merrill Dow Pharmaceuticals, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993), and/or Rule 702 of the *Federal Rules of Evidence*, challenging the qualifications, relevance, reliability, or factual or evidentiary basis of any expert opinion evidence shall be filed no later than May 3, 2004.

f. All other pretrial motions (except motions in *limine*), including, but not limited to, motions to suppress evidence, shall be filed no later than May 3, 2004.

g. Motions in *limine* or other motions seeking to prevent or limit the use of evidence at trial (except motions to suppress evidence as unconstitutionally obtained, which must be filed by May 3, 2004) shall be filed no later than July 2, 2004.

h. All evidentiary materials and briefs in support of a motion shall be filed simultaneously with the motion; failure to comply with this requirement shall be a ground for denying the motion summarily. All evidentiary materials and briefs in opposition to a motion shall be filed no later than thirty (30) calendar days after the date of service of the motion so opposed or the date provided herein for filing a response to a motion, whichever is earlier. Failure to comply

with this requirement may preclude the opponent of the motion from being further heard in opposition to it. As used in this paragraph, the term “thirty calendar days” shall include weekends and holidays unless the thirtieth day falls on a weekend or holiday, in which event the responding party shall have until the close of the next business day to comply with the filing requirement. NO EXTRA DAYS MAY BE ADDED FOR MAILING.

III. Pretrial Procedures—

a. The parties may submit, jointly or separately, a proposed juror questionnaire for consideration by the court, together with any suggestions concerning the size of the venire to be empaneled, the manner the *voir dire* shall be conducted, and any other suggestions concerning the empaneling of the jury, including either parties’ position about sequestering the jury, by no later than May 3, 2004.

b. The parties may submit to the court for consideration any requested jury instructions or special verdict forms by no later than July 2, 2004.

c. The court hereby SETS a final pretrial conference for Tuesday, July 6, 2004, at 9:00 a.m., at the Hugo L. Black U.S. Courthouse, Birmingham, Alabama, during which it is anticipated that at least the following topics will be discussed:

1. The size of the venire.
2. The manner in which *voir dire* shall be conducted and the number of peremptory challenges to be exercised by the parties.
3. The number of alternate jurors to be seated.
4. The anticipated length of trial, including the length of phases within the trial.
5. Requested jury instructions and verdict forms, including preliminary as well as final instructions.

6. The order of witnesses and evidence, including any special scheduling problems related to witnesses.
7. Any special technological needs for evidentiary presentation, such as computer links, overhead projection, and sound or video players.
8. Special security procedures for the defendant, court, and jury.

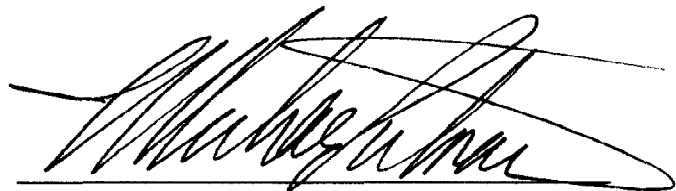
All counsel who shall participate in trial are required to attend the pretrial conference; no attorney who fails to attend the conference will be recognized during trial, absent a showing of *extraordinary* cause for the failure to attend the conference.

d. Motions in *limine* and other motions limiting the use of evidence are hereby SET for hearing by the court on Monday, July 19, 2004, at 9:00 a.m.

IV. Trial— The trial of this case is hereby SET for August 2, 2004, at 9:00 a.m., at a place to be determined following consideration of any motions to change venue.

The Clerk is DIRECTED to forward a copy of the foregoing to all counsel of record.

DONE and ENTERED this 30th day of December, 2003.

A handwritten signature in black ink, appearing to read 'T. Michael Putnam', written over a horizontal line.

T. MICHAEL PUTNAM
CHIEF MAGISTRATE JUDGE